IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO.2198 OF 2005

Thakur Ziledar Lalta Singh .. Petitioner

Versus

Yakub Umber Beg).. Respondent

Mr.Diwakar Diwedi for the Petitioner.

Mr.I.A.Raibakker for the Respondent.

CORAM: SMT.NISHITA MHATRE, J.

DATED: 8TH AUGUST 2005

P.C.:

. This Petition is directed against the orders of the trial Court and the Appellate Court for stay of the eviction proceedings. The trial Court has decided the Suit ex-parte on account of the Petitioner not being present. The Petitioner has moved an Interim Notice before the Appellate Court for stay of the execution proceedings. In the Interim Notice, the Petitioner had submitted that he was required to go to his native place because of unavoidable circumstances for some important work. There are no details provided by the Petitioner regarding this ground taken by him in the Interim Notice. The trial Court and the Appellate Court have found that no reasons have been made out by the Petitioner to set aside the decree.

2. Reliance is placed by the Advocate for the Petitioner on the judgment of the Supreme Court in the case of *Collector, Land Acquisition, Anantnag and another* vs. *Mst.Katiji and others*, **AIR 1987 SC 1353**, to submit that a liberal view be taken when there is a negligence of the Advocate. However, in the present case, the Petitioner has stated that in 2002 itself he had returned to Mumbai and had made enquiries with the Advocate. The Petitioner had not thought it fit to enquire as to what has happened to the suit proceedings and presumed that the Suit was dismissed. In such circumstances, the Petitioner does not deserve any leniency. Hence, Petition rejected.